

COMPLIANCE SCHEDULE PROVISIONS ADOPTED BY THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARDS

The 1990 *Star-Kist Caribe* decision¹ provides that compliance time schedules can be included in National Pollutant Discharge Elimination System (NPDES) permits only if the states' water quality control plans contain explicit authorization. Since 1990, seven of the nine Regional Water Quality Control Boards (Regional Water Boards) in California have adopted amendments to their Water Quality Control Plans (Basin Plans) to authorize incorporation of compliance time schedules in NPDES requirements.

Basin Plan amendments that authorize compliance time schedules in NPDES permits must be approved by the State Water Board, the California Office of Administrative Law, and USEPA before becoming effective. Five Regions have effective compliance schedule provisions, which are listed below in order of effective date:

Region:	Effective Date:
Central Valley (Region 5):	September 25, 1995
San Francisco Bay (Region 2):	November 13, 1995
Santa Ana (Region 8):	July 15, 2002
Los Angeles (Region 4)	February 18, 2004
North Coast (Region 1)	February 27, 2006

In addition, the San Diego Water Board (Region 9) adopted compliance schedule authorization provisions on November 9, 2005, which the State Water Board and OAL have approved. However, the USEPA has yet to approve this Basin Plan amendment. The Lahontan Water Board (Region 6) recently adopted a compliance schedule Basin Plan amendment on April 12, 2006 that was withdrawn from State Water Board consideration due to legal concerns. The Central Coast Region (Region 3) and the Colorado River Basin Regions (Region 7) have not adopted compliance schedule authorization provisions.

The adopted Regional Water Board resolutions and language authorizing compliance schedules for their respective Regions are shown below.

¹ *In the Matter of Star-Kist Caribe, Inc.*, NPDES APPEAL No. 88-5.

The North Coast Region's Compliance Schedule Provisions:

(Adopted on March 24, 2004 and effective February 27, 2006)

The following language is contained in Chapter 3 (Water Quality Objectives) of the North Coast Region's Basin Plan:

COMPLIANCE WITH WATER QUALITY OBJECTIVES

The Regional Water Board recognizes that immediate compliance with new effluent and/or receiving water NPDES permit limitations based on new, revised or newly interpreted water quality objectives or prohibitions adopted by the Regional Water Board or the State Water Resources Control Board, or with new, revised or newly interpreted water quality criteria promulgated by the U.S. Environmental Protection Agency (USEPA),¹ may not be technically and/or economically feasible² in all circumstances.

Where the Regional Water Board determines that it is infeasible for an existing discharger³ to immediately comply with NPDES permit effluent limitations or where appropriate, receiving water limitations, specified to implement new, revised or newly interpreted water quality objectives, criteria or prohibitions; issuance of a schedule of compliance⁴ may be appropriate.

Similarly, immediate compliance may not be technically and/or economically feasible for existing non-NPDES dischargers that, under new interpretation of law, are newly required to comply with new NPDES permitting requirements. Issuance of a schedule of compliance may be appropriate in these circumstances as well, to comply with effluent and/or receiving water limitations specified to implement objectives, criteria, or prohibitions that are adopted, revised, or reinterpreted after July 1, 1977, and that were not included in the non-NPDES permit.

¹ New, revised, or newly interpreted water quality objectives, criteria, or prohibitions means: 1) objectives as defined in Section 13050(h) of Porter-Cologne; 2) criteria as promulgated by the USEPA; or 3) prohibitions as defined in the Water Quality Control Plan for the North Coast Region that are adopted, revised, or newly interpreted after November 29, 2006. Objectives and criteria may be narrative or numeric.

² Technical and economic feasibility shall be determined consistent with State Board Resolution No. 92-49.

³ Existing discharger as defined in the State "Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California," (CTR-SIP) means: any discharger (non-NPDES or NPDES) that is not a new discharger. An existing discharger includes an increasing discharger (i.e., an existing facility, with treatment systems in place for its current discharge that is or will be expanding, upgrading, or modifying its existing permitted discharge after November 29, 2006). A new discharger includes any building, structure, facility, or installation from which there is, or may be, a discharge of pollutants, the construction of which commenced after November 29, 2006.

⁴ Schedule of compliance: as defined in Section 502 (17) of the Clean Water Act, means: a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard.

Any schedule of compliance shall require achievement of the effluent limitations and/or receiving water limitations within the shortest feasible period of time, taking into account the factors identified in Chapter 4 for the implementation of schedules of compliance. All schedules of compliance will be limited to the time frames set out in Chapter 4.

The following language is contained in Chapter 4 (Implementation Plans) of the North Coast Region's Basin Plan:

SCHEDULES OF COMPLIANCE

The Regional Water Board may establish a Schedule of Compliance in an National Pollution Discharge Elimination System (NPDES) permit under the following circumstances:^{5,6}

- 1) Where an existing discharger⁷ has demonstrated, to the Regional Water Board's satisfaction, that it is infeasible to achieve immediate compliance with effluent and/or receiving water limitations specified to implement new, revised, or newly interpreted water quality objectives, criteria, or prohibitions.⁸
- 2) Where a discharger is required to comply with Total Maximum Daily Loads (TMDLs) adopted as a single permitting action,⁹ and demonstrates that it is

⁵ Schedules of compliance for CTR criteria are independently authorized and governed by 40 CFR 122.47 and 131.38, and the State "Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California" (CTR-SIP). This amendment is intended to supplement, not supercede, these provisions required by the CTR-SIP. All CTR limits must be consistent with the CTR-SIP and applicable federal rules.

⁶ Schedules of compliance for Non-NPDES Waste Discharge Requirements (WDRs) are also independently authorized by Porter Cologne, and will continue to be adopted on a case-by-case basis.

⁷ Existing discharger is defined in the State "Policy for Implementation of Toxic Substance Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California," (CTR-SIP) as any discharger (non-NPDES or NPDES) that is not a new discharger. An existing discharger includes an increasing discharger (i.e., an existing facility with treatment systems in place for its current discharge that is or will be expanding, upgrading, or modifying its existing permitted discharge after November 29, 2006). A new discharger includes any building, structure, facility, or installation from which there is, or may be, a discharge of pollutants, the construction of which commenced after November 29, 2006.

⁸ New, revised, or newly interpreted water quality objectives, criteria, or prohibitions means: 1) objectives as defined in Section 13050(h) of Porter-Cologne; 2) criteria as promulgated by the United States Environmental Protection Agency (USEPA); or 3) prohibitions as defined in the *Water Quality Control Plan for the North Coast Region* that are adopted, revised, or newly interpreted after November 29, 2006. Objectives and criteria may be narrative or numeric.

⁹ "Single permitting actions" means those where the Regional Board incorporates the requirements to implement a TMDL through one NPDES permit. These actions would not require a Basin Plan amendment, but would require a technical staff report to support the permit requirements and any

infeasible to achieve immediate compliance with effluent and/or receiving water limits that are specified to implement new, revised or newly interpreted objectives, criteria, or prohibitions.

The schedule of compliance shall include a time schedule for completing specific actions (including interim effluent limits) that demonstrate reasonable progress toward attaining the effluent and/or receiving water limitations, water quality objectives, criteria, or prohibitions. The schedule of compliance shall contain interim limits and a final compliance date based on the shortest feasible time required to achieve compliance (determined by the Regional Water Board at a public hearing after considering the factors identified below).

Schedules of compliance in NPDES permits for existing NPDES permittees shall be as short as feasible, but in no case exceed the following:

Up to five years from the date of permit issuance, re-issuance, or modification that establishes effluent and/or receiving water limitations specified to implement new, revised, or newly interpreted objectives, criteria, or prohibitions. A permittee can apply for up to a five-year extension, but only where the conditions of the schedule of compliance have been fully met, and sufficient progress toward achieving the objectives, criteria, or prohibitions has been documented.

In no case shall a schedule of compliance for these dischargers exceed ten years from the effective date of the initial permit that established effluent and/or receiving water limitations specified to implement new, revised, or newly interpreted objectives, criteria, or prohibitions.

TMDL-derived effluent and/or receiving water limitations that are specified to implement new, revised, or newly interpreted water quality objectives, criteria, or prohibitions that are adopted as a single permitting action:

In this scenario, schedules of compliance shall require compliance in the shortest feasible period of time, but may extend beyond ten years from the date of the permit issuance.

To document the need for and justify the duration of any such schedule of compliance, a discharger must submit the following information, at a minimum. The Regional Water Board will review the information submitted to determine if a schedule of compliance is appropriate.

permit specified compliance schedule. Furthermore, the USEPA would still be required to approve the TMDL under the federal CWA Section 303(d).

For all applicants:

- A written request, and demonstration, with supporting data and analysis, that it is technically and/or economically infeasible¹⁰ to achieve immediate compliance with newly adopted, revised or newly interpreted water quality objectives, criteria or prohibitions.
 - Results of diligent efforts to quantify pollutant levels in the discharge and the sources of the pollutant in the waste stream.
 - Documentation of source control efforts currently underway or completed, including compliance with any pollution prevention programs that have been established.
 - A proposed schedule for additional source control measures or waste treatment.
 - The highest discharge quality that is technically and economically feasible to achieve until final compliance is attained.
 - A demonstration that the proposed schedule of compliance is as short as technically and economically feasible.
 - Data demonstrating current treatment facility performance to compare against existing permit effluent limits, as necessary to determine which is the more stringent interim limit to apply if a schedule of compliance is granted.
 - Additional information and analyses, to be determined by the Regional Water Board on a case-by-case basis.
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¹⁰ Technical and economic feasibility shall be determined consistent with State Board Order 92-49.

The San Francisco Bay Region's Compliance Schedule Provisions: (Effective November 13, 1995)

The following language is contained in Chapter 4 (Implementation Plans) of the San Francisco Region's Basin Plan:

4.7.6 COMPLIANCE SCHEDULES

As new objectives or standards are adopted, permits will be revised accordingly. Revised permits will distinguish between effluent limitations that are met by current performance, and effluent limitations not currently attained. Immediate compliance will be required for effluent limitations that are met by current performance.

The Water Board may consider dischargers' proposals for longer compliance schedules for newly adopted objectives or standards as NPDES permit conditions for particular substances, where revised effluent limitations are not currently being met and where justified. The primary goal in setting compliance schedules is to promote the completion of source control and waste minimization measures, including water reclamation.

Justification for compliance schedules will include, at a minimum, all of the following:

- (a) Submission of results of a diligent effort to quantify pollutant levels in the discharge and the sources of the pollutant in the waste stream;
- (b) Documentation of source control efforts currently underway or completed, including compliance with the Pollution Prevention program described in the Basin Plan;
- (c) A proposed schedule for additional source control measures or waste treatment; and
- (d) A demonstration that the proposed schedule is as short as possible.

Implementation of source control measures to reduce pollutant loadings to the maximum extent practicable shall be completed as soon as possible, but in no event later than four years after new objectives or standards take effect. Implementation of any additional measures that may be required to comply with effluent limitations shall be completed as soon as possible, but in no event later than ten years after new objectives or standards take effect. The issuance of the permit containing a compliance schedule should not result in a violation of any applicable requirement of the federal Clean Water Act or the California Water Code, including any applicable Clean Water Act statutory deadlines.

The Los Angeles Region's Compliance Schedule Provisions:

(Adopted on January 30, 2003 and effective February 18, 2004)

The following language is contained in Chapter 3 (Water Quality Objectives) of the Los Angeles Region's Basin Plan:

COMPLIANCE WITH WATER QUALITY OBJECTIVES

The Regional Board recognizes that immediate compliance with a new, revised or newly interpreted water quality standard¹ adopted by the Regional Board, the State Water Resources Control Board, or the U.S. Environmental Protection Agency, may not be feasible in all circumstances. Where the Regional Board determines that it is infeasible² for an existing discharger³ to comply immediately with an effluent limitation specified to implement such a standard, compliance shall be achieved in the shortest possible period of time, taking into account the factors identified in Chapter 4 for the implementation of compliance schedules. With the exception of a total maximum daily load (TMDL) adopted as a single permitting action, compliance shall be achieved no later than five years from the date of permit issuance, reissuance or modification, and no later than ten years after the adoption, revision, or interpretation of an applicable standard, whichever is the shorter period of time. In the case of a TMDL adopted as a single permitting action⁴, a compliance schedule of greater than five years from the date of permit issuance, reissuance or modification may be granted, but the compliance schedule must be as short as possible as determined in the TMDL based on the TMDL's support document, and may only be used when implementing a new, revised or newly interpreted water quality standard.

¹ "Newly interpreted water quality standard" means a narrative water quality objective that, when interpreted by the Regional Board during NPDES permit development (using appropriate scientific information and consistent with state and federal law) to determine the numeric effluent limits necessary to implement the narrative objective, results in a numeric effluent limitation more stringent than the prior NPDES permit issued to the discharger.

² "Infeasible" means that discharger compliance cannot be accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors.

³ "Existing discharger" means any discharger that is not a new discharger. An existing discharger includes an increasing discharger (i.e., an existing facility with treatment systems in place for its current discharge that is or will be expanding, upgrading, or modifying its existing permitted discharge after a new, revised, or newly interpreted water quality standard becomes applicable). A "new discharger" is defined as any building, structure, facility, or installation from which there is or may be a "discharge of pollutants" (as defined in 40 C.F.R. § 122.2) to surface waters of the Los Angeles Region, the construction of which commences after a new, revised, or newly interpreted water quality standard becomes applicable.

⁴ "Single permitting actions" are those where the Regional Board incorporates all the requirements to implement a TMDL through one NPDES permit. These actions would not require a Basin Plan amendment, but would require a technical staff report to support the permit requirements and any permit specified compliance schedule. Furthermore, the U.S. Environmental Protection Agency would still be required to approve the TMDL under federal Clean Water Act section 303(d).

This provision authorizes compliance schedules for standards that are adopted, revised or newly interpreted after the effective date of this amendment (on the date approved by U.S. Environmental Protection Agency, pursuant to Federal Clean Water Act Section 303(c)(3)). Nothing in this provision limits the Regional Board's authority (1) to develop alternate implementation provisions for water quality objectives adopted or revised in the future, or (2) to rely on alternate implementation provisions authorized pursuant to State Water Resources Control Board policies for water quality control, state regulations, or federal regulations."

The following language is contained Chapter 4 (Strategic Planning and Implementation) of the Los Angeles Region's Basin Plan:

COMPLIANCE SCHEDULES

"Where the Regional Board determines that it is infeasible¹ for an existing discharger² to achieve immediate compliance with an effluent limitation specified to implement a new, revised or newly interpreted water quality standard³, whether numeric or narrative, adopted by the Regional Board, State Water Resources Control Board, or the U.S. Environmental Protection Agency, the Regional Board may establish a compliance schedule in a discharger's Waste Discharge Requirements (NPDES permit). In addition, the Regional Board may establish a compliance schedule to implement a total maximum daily load (TMDL) adopted as a single permitting action⁴, but the compliance schedule must be as short as possible as determined in the TMDL based on the TMDL's support document, and may only be used when implementing new, revised or newly interpreted water quality standards.

¹ "Infeasible" means that discharger compliance cannot be accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors.

² "Existing discharger" means any discharger that is not a new discharger. An existing discharger includes an increasing discharger (i.e., an existing facility with treatment systems in place for its current discharge that is or will be expanding, upgrading, or modifying its existing permitted discharge after a new, revised, or newly interpreted water quality standard becomes applicable). A "new discharger" is defined as any building, structure, facility, or installation from which there is or may be a "discharge of pollutants" (as defined in 40 C.F.R. §122.2) to surface waters of the Los Angeles Region, the construction of which commences after a new, revised, or newly interpreted water quality standard becomes applicable.

³ "Newly interpreted water quality standard" means a narrative water quality objective that, when interpreted by the Regional Board during NPDES permit development (using appropriate scientific information and consistent with state and federal law) to determine the numeric effluent limits necessary to implement the narrative objective, results in a numeric effluent limitation more stringent than the prior NPDES permit issued to the discharger.

⁴ "Single permitting actions" are those where the Regional Board incorporates all the requirements to implement a TMDL through one NPDES permit. These actions would not require a Basin Plan amendment, but would require a technical staff report to support the permit requirements and any permit specified compliance schedule. Furthermore, the U.S. Environmental Protection Agency would still be required to approve the TMDL under federal Clean Water Act section 303(d).

The compliance schedule shall include a time schedule for completing specific actions (including interim effluent limits) that demonstrate reasonable progress toward attainment of the effluent limitations and, thereby, water quality standards. The schedule shall contain a final compliance date, based on the shortest possible time (determined by the Regional Board at a public hearing after considering the factors identified below) required to achieve compliance. In addition, in all cases, the NPDES permit findings shall specify the final effluent limitations. Except in the case of a TMDL adopted as a single permitting action, an NPDES permit may not include a compliance schedule that extends beyond five years from the date of permit issuance, reissuance or modification, or more than ten years from the date of adoption, revision, or interpretation of the applicable water quality standard, whichever is the shorter period of time. Compliance schedules are authorized by this provision only for those effluent limitations that implement water quality standards adopted, revised or newly interpreted after the effective date (on the date approved by U.S. Environmental Protection Agency, pursuant to Federal Clean Water Act Section 303(c)(3)) of this provision. Nothing in this provision limits the Regional Board's authority (1) to develop alternate implementation provisions for water quality objectives adopted or revised in the future, or (2) to rely on alternate implementation provisions authorized pursuant to State Water Resources Control Board policies for water quality control, state regulations, or federal regulations.

To document the need for and justify the duration of any such compliance schedule, a discharger must submit the following information, at a minimum: (1) the results of a diligent effort to quantify pollutant levels in the discharge and the sources of the pollutant(s) in the waste stream; (2) documentation of source control efforts currently underway or completed, including compliance with any pollution prevention programs that have been established; (3) a proposed schedule for additional source control measures or waste treatment; (4) the highest discharge quality that can reasonably be achieved until final compliance is attained; and (5) a demonstration that the proposed schedule is as short as possible, taking into account economic, technical and other relevant factors. The need for additional information and analyses will be determined by the Regional Board on a case-by-case basis."

The Central Valley Region's Compliance Schedule Provisions:

(Adopted on May 26, 1995 and effective September 25, 1995)

The following language is contained in Chapter 4 (Implementation) of the Central Valley Region's Basin Plan:

Where the Regional Water Board determines it is infeasible to achieve immediate compliance with water quality objectives adopted by the Regional Water Board or the State Water Board, or with water quality criteria adopted by the USEPA, or with an effluent limitation based on these objectives or criteria, the Regional Water Board may establish in NPDES permits a schedule of compliance. The schedule of compliance shall include a time schedule for completing specific actions that demonstrate reasonable progress toward the attainment of the objectives or criteria and shall contain a final compliance date, based on the shortest practicable time (determined by the Regional Water Board) required to achieve compliance. In no event shall an NPDES permit include a schedule of compliance that allows more than ten years (from the date of adoption of the objective or criteria) for compliance with water quality objectives, criteria or effluent limitations based on the objectives or criteria. Schedules of compliance are authorized by this provision only for those water quality objectives or criteria adopted after the effective date of this provision [25 September 1995].

The Lahontan Region's Compliance Schedule Provisions:

(Adopted on April 12, 2006, but withdrawn due to legal concerns.)

The following revisions (indicated in ~~strikeout~~/underline format) to Chapter 4 (Implementation) of the Lahontan Region's Basin Plan was adopted by the Lahontan Water Board, but later withdrawn:

Compliance Schedules

The Porter-Cologne Act (CA Water Code § 13242[b]) requires a Basin Plan's program of implementation for achieving water quality objectives to include a "time schedule for the actions to be taken." Because of the lack of ambient water quality monitoring data for most of the water bodies of the Lahontan Region (see Chapter 7), it is not possible to state whether or not these waters are in achievement of all water quality objectives, or to set compliance schedules for achievement. The Regional Board periodically reviews available information on attainment of objectives and support of beneficial uses as part of the Water Quality Assessment (ongoing), Section 305(b) reporting (every two years), and Triennial Review (every three years) processes. These reviews may result in Basin Plan amendments and/or the issuance of new or revised discharge permits that ~~which~~ will include specific compliance schedules for particular dischargers or for all discharges affecting particular water bodies. The Regional Board is also required to prioritize impaired water bodies listed as "Water Quality Limited" under Section 303(d) of the Clean Water Act for the development of "Total Maximum Daily Loads" (TMDLs) of pollutants to be used in setting wasteload allocations for dischargers, in order to ensure attainment of standards.

Where the Regional Board determines it is infeasible to achieve immediate compliance with water quality objectives adopted by the Regional Board or State Board, with water quality criteria adopted by the USEPA, or with an effluent limitation based on these objectives or criteria, the Regional Board may establish in NPDES permits a schedule of compliance in accordance with federal NPDES regulations (40 CFR §122.47). Compliance schedules may not be included that would violate federal Clean Water Act statutory requirements that are applicable to municipal POTWs and industrial point source discharges.

The schedule of compliance shall include a time schedule for completing specific actions that demonstrate reasonable progress toward the attainment of the objectives or criteria and shall contain a final compliance date, based on the shortest practical time (determined by the Regional Board) required to achieve compliance. Compliance schedules for California Toxic Rule (CTR) objectives shall comply with the provisions of the State Implementation Plan (SIP) [40 C.F.R. section 131.38(e)(6) and in the CTR-SIP, Section 2.1].

Schedules of compliance may also be included in NPDES storm water permits where an iterative approach is necessary to develop appropriate strategies and controls to meet water quality objectives.

~~The 1975 Basin Plans included recommendations that specific studies be carried out by specific dates on needs for community wastewater collection and treatment facilities in certain areas of the Lahontan Region. These plans also recommended that some communities construct specific facilities by given dates. Most of these schedules were not met. Because expected year-to-year changes in availability of and priorities for funding will ensure that long term schedules are unrealistic, this Basin Plan does not include such recommendations. Priorities are set on a short-term basis for studies through the State Board's use of the Clean Water Strategy ranking system in various grant programs, and for facilities construction through the State Board Division of Clean Water Programs needs assessment process for loans and grants. Once funding is allocated, completion schedules are set through the contract process.~~

~~Some of the water quality control programs for the Lahontan Region do have specific compliance deadlines, which are discussed later in this Basin Plan. For example, the control measures for the Lake Tahoe Basin which are discussed in Chapter 5 are to be implemented over a 20-year period (through 2007) to ensure attainment of objectives. Some of the waste discharge prohibitions discussed later in this Chapter also include specific compliance dates.~~

~~The Regional Board maintains discharge permits (WDRs and NPDES permits) for point sources, each of which includes its own compliance schedule. Waste discharge permits for construction projects generally require implementation of Best Management Practices during and immediately after construction; long-term maintenance of permanent BMPs is expected. Regional Board enforcement orders for specific problems also include compliance schedules.~~

The Santa Ana Region's Compliance Schedule Provisions:

(Adopted on May 19, 2000 and effective July 15, 2002)

The following language is contained in Chapter 4 (Water Quality Objectives) of the Santa Ana Region's Basin Plan:

COMPLIANCE WITH OBJECTIVES

The Regional Board recognizes that immediate compliance with new, revised or newly interpreted water quality objectives adopted by the Regional Board or the State Water Resources Control Board, or with new, revised or newly interpreted water quality criteria promulgated by the U.S. Environmental Protection Agency, may not be feasible in all circumstances. Where the Regional Board determines that it is infeasible for a discharger to comply immediately with effluent limitations specified to implement such objectives or criteria, compliance shall be achieved in the shortest practicable period of time, not to exceed ten years after the adoption or interpretation of applicable objectives or criteria.

This provision authorizes schedules of compliance for objectives and criteria that are adopted or revised or newly interpreted after the effective date of this amendment (July 15, 2002).

The following language is contained in Chapter 5 (Implementation) of the Santa Ana Region's Basin Plan:

Where the Regional Board determines that it is infeasible to achieve immediate compliance with an effluent limitation specified to implement a new, revised or newly interpreted water quality objective, whether numeric or narrative, adopted by the Regional Board or State Water Resources Control Board, or with a new, revised or newly interpreted water quality criterion promulgated by the U.S. Environmental Protection Agency, the Regional Board may establish a schedule of compliance in a discharger's waste discharge requirements (NPDES permit). The schedule of compliance shall include a time schedule for completing specific actions that demonstrate reasonable progress toward attainment of the effluent limitation and, thereby, the objective or criterion. The schedule shall contain a final compliance date, based on the shortest practicable time (determined by the Regional Board at a public hearing) required to achieve compliance. In no event shall an NPDES permit include a schedule of compliance that allows more than ten years from the date of adoption or interpretation of the applicable objective or criterion. Schedules of compliance are authorized by this provision only for those effluent limitations that implement objectives and criteria adopted, revised or newly interpreted after the effective date of this provision (July 15, 2002)."

To document the need for and justify the duration of any such compliance schedule, a discharger must submit the following information, at a minimum: (1) the results of a diligent effort to quantify pollutant levels in the discharge and the sources of the pollutant(s) in the waste stream; (2) documentation of source control efforts currently underway or completed, including compliance with any Pollution Prevention programs that have been established; (3) a proposed schedule for additional source control measures or waste treatment; (4) the discharge quality that can reasonably be achieved until final compliance is attained; and (5) a demonstration that the proposed schedule is as short as possible, taking into account economic, technical and other relevant factors. The need for additional information and analyses will be determined by the Regional Board on a case-by-case basis.”

The San Diego Region's Compliance Schedule Provisions:

(Adopted on November 9, 2005. Not yet effective.)

Chapter 4 (Implementation) of the San Diego Region's Basin Plan was amended as follows:

The first sentence of the section titled "National Pollutant Discharge Elimination System (NPDES)" was revised as follows with the new language shown underlined:

Waste Discharge Requirements that implement federal National Pollutant Discharge Elimination System (NPDES) regulations ("NPDES requirements" or "NPDES permits") are issued to regulate discharges of "pollutants" from point sources to "waters of the United States" to ensure that the quality and quantity of such discharges does not adversely affect surface water quality or beneficial uses.

The following section was added after the section titled "National Pollutant Discharge Elimination System (NPDES):

COMPLIANCE TIME SCHEDULES

The Regional Board may establish compliance time schedules in NPDES requirements where the Regional Board determines that, for an existing discharger,¹ achieving immediate compliance in a discharge with new or more stringent water quality based effluent limitations or receiving water limitations that implement new, revised, or newly interpreted water quality objectives,² and/or that resulted from new knowledge on the characteristics and impacts of the discharge is infeasible.³ New knowledge about the characteristics and impacts of the discharge that can result in new or more stringent WQBELs or receiving water limitations include, but are not limited to, the following situations:

- Pollutants previously unregulated in an existing discharge are newly regulated because the new information indicates a reasonable potential for the discharge to exceed an applicable water quality objective in the receiving water;

¹ "Existing discharger" means any discharger that is not a new discharger. An existing discharger includes an increasing discharger (i.e., an existing facility with treatment systems in place for its current discharge that is or will be expanding, upgrading, or modifying its existing permitted discharge after a new, revised, or newly interpreted water quality objective becomes applicable). A "new discharger" is defined as any building, structure, facility, or installation from which there is or may be a "discharge of pollutants" (as defined in 40 CFR section 122.2) to surface waters of the San Diego Region, the construction of which commences after a new, revised, or newly interpreted water quality objective becomes applicable.

² "New, revised, or newly interpreted water quality objectives means" objectives as defined in section 13050(h) of Porter-Cologne, issued, revised or newly interpreted after November 9, 2005. Objectives may be narrative or numeric.

³ "Infeasible" means that discharger compliance cannot be accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors.

- Pollutants are newly detected in an existing discharge due to improved analytical techniques;
- The point of compliance for a receiving water limitation is changed; and
- The dilution allowance for an existing discharge is changed.

Compliance time schedules are authorized by this provision only for new or more stringent effluent and/or receiving water limitations that implement water quality objectives issued, revised, or newly interpreted after November 9, 2005, or that resulted from new knowledge on the characteristics and impacts of the discharge for any pollutant for which a water quality objective was issued, revised, or newly interpreted after July 1, 1977.

The compliance time schedule shall include a time schedule for completing or achieving specific actions (including interim effluent limitations) that demonstrate reasonable progress toward compliance with water quality based effluent limitations or receiving water limitations and, thereby, attainment of water quality objectives. The compliance time schedule shall contain a final compliance date, based on the shortest practicable time (determined by the Regional Board at a public hearing after considering the factors identified below) required to achieve compliance. In addition, in all cases, the findings of the NPDES requirements shall specify the final effluent limitations.

Compliance schedules in NPDES requirements shall be as short as practicable but in no case exceed five years from the date of order issuance, reissuance or modification. The Regional Board may grant an additional extension of up to five years, but only where the discharger has demonstrated satisfactory progress toward achieving compliance with applicable water quality based effluent limitations and receiving water limitations and the Regional Board concurs with the demonstration. In no case, shall a compliance time schedule for these discharges exceed ten years from the date of adoption, revision, or interpretation of the applicable water quality objective, whichever is the shorter period of time.

Nothing in this provision limits the Regional Board's authority (1) to develop alternate implementation provisions for water quality objectives adopted or revised in the future, or (2) to rely on alternate implementation provisions authorized pursuant to State Board policies for water quality control, State regulations, or federal regulations. Compliance time schedules to meet WQBELs and receiving water limitations that implement California Toxics Rule criteria will be limited by the provisions of the State Board "Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California."

To document the need for and justify the duration of any such compliance time schedule, a discharger must submit the following information, at a minimum: (1) the

results of a diligent effort to quantify pollutant levels in the discharge and the sources of the pollutant(s) in the waste stream; (2) Identification of the sources of the pollutant in the waste stream, documentation of source control efforts currently underway or completed, including compliance with any pollution prevention programs that have been established, and a proposed schedule for additional source control measures or waste treatment needed to meet the WQBELs and/or receiving water limitations; (3) evidence that the discharge quality is the highest that can reasonably be achieved until final compliance is attained; and (4) a demonstration that the proposed schedule is as short as practicable, taking into account economic, technical and other relevant factors. The need for additional information and analyses will be determined by the Regional Board on a case-by-case basis. The need for and justification of the duration of any such compliance time schedule will be subject to Regional Board review and approval.
